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SESSIONAL WORKING GROUP ON THE IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

SUMMARY RECORD OF THE 3rd MEETING

Held at Headquarters, New York,
on Wednesday, 15 April 1981, at 10.30 a.m.

Chairman: Mr. JOHNSON (Ecuador)

CONTENTS

Election of officers (continued)

Consideration of reports submitted in accordance with Council resolution 1988 (LX) by States Parties to the Covenant concerning rights covered by articles 10 to 12

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The meeting was called to order at 10.35 a.m.

ELECTION OF OFFICERS (continued)

1. Mr. Satyabrata Pal (India) was elected Rapporteur by acclamation.

CONSIDERATION OF REPORTS SUBMITTED IN ACCORDANCE WITH COUNCIL RESOLUTION 1988 (LX) BY STATES PARTIES TO THE COVENANT CONCERNING RIGHTS COVERED BY ARTICLES 10 TO 12

Czechoslovakia (E/1980/6/Add.21)

2. At the invitation of the Chairman, Mr. Kunz (Czechoslovakia) took a place at the Committee table.

3. Mr. KUNZ (Observer for Czechoslovakia), in introducing his country's report concerning the rights covered by articles 10 to 12 of the Covenant, pointed out that the report had been prepared in accordance with the general guidelines for such reports and contained a survey of the relevant legal provisions, information on their content and other data requested. In Czechoslovakia, the right of peoples to self-determination and the exercise of all fundamental rights without discrimination of any kind were fully guaranteed, in accordance with articles 1 and 2 of the Covenant. In accordance with article 3 of the Covenant, the equal status of women was ensured in the family, at work and in public activity through the provision of special health care and the adjustment of working conditions during pregnancy and for mothers and through the development of ways of enabling women to use all their capabilities in the life of society.

4. The rights covered by articles 10 to 12 of the Covenant were in practice guaranteed to stateless persons in the same way as they were to citizens of Czechoslovakia, and foreigners were guaranteed the same treatment as citizens in civil, family, labour and other matters, without any stipulations concerning reciprocity. The report thus referred only to exceptional cases in which the implementation of the provisions of articles 10 to 12 were reserved for Czechoslovak citizens.

5. Even before his country had ratified the Covenant, Czechoslovak legislation and the establishment of a socialist society had created the material conditions necessary for the enjoyment of the rights covered by articles 10 to 12 to an even greater extent than was required under the Covenant.

6. Although no major changes had occurred in Czechoslovak legislation since the report had been prepared in October 1980, the Prime Minister of Czechoslovakia, at the Sixteenth Congress of the Czechoslovak Communist Party, had announced the programme for the further growth of the national economy, and of social services and health care. Accordingly, changes directed towards the further development and welfare of the people would surely be reflected in Czechoslovak legislation in future.

7. Referring to the provisions of article 10 of the Covenant, he drew attention to a typographical error in the fourth paragraph of the relevant part of the report (E/1980/6/Add.21), in which the words "The Civil Code" should read "The Labour Code".

(Mr. Kunz, Observer, Czechoslovakia)

8. With regard to the Family Code, he drew attention to the sixth paragraph on page 4 of the report and stressed that family life should be based on mutual understanding and affection between the spouses. Referring to the first paragraph on page 5 of the report concerning approval for marriage, he pointed out that the one exception to that provision arose in connexion with minors over the age of 16 who were pregnant, in which case permission might be granted and legal representatives must present their views.

9. Referring to the provisions concerning the granting of loans, which were described on pages 5 and 6 of the report, he drew attention to the special provisions for young married couples which enabled them to obtain as much as 300,000 koruna, payable within 30 years, from the State bank.

10. Clarifying the wording used in the second sentence of the second paragraph on page 7, he explained that, if a person misused a children's allowance, that person would no longer be entitled to receive such an allowance, but the child would still continue to receive it.

11. Referring to the provisions governing maternity protection described on pages 11 to 14 of the report, he stressed that all the relevant allowances and benefits were directed towards assisting mothers of small children, but they applied only to the needs of mothers living in the territory of Czechoslovakia.

12. As to the protection of children and young persons, he pointed out that under Czechoslovak law children born out of wedlock were treated the same as the children of married parents. He also drew attention to the special measures for mentally and physically handicapped children and to the special supervision of juvenile delinquents. In that connexion, he observed that the words "conditionally sentenced" in the second paragraph on page 20 should read "sentenced on probation".

13. Referring to the measures taken in connexion with the right to an adequate standard of living (art. 11 of the Covenant), he pointed out that, in his statement to the Sixteenth Congress of the Czechoslovak Communist Party, the Prime Minister had suggested that measures should be taken to increase the level of individual consumption by 7 per cent by 1985, compared with 1980.

14. As to the right to housing (pp. 30-33), he said that under the relevant laws a person could buy or rent a flat or house or construct a flat or house. He drew attention to the provisions governing the rental of flats on page 33 of the report.

15. In conclusion, he observed that the information concerning physical and mental health appearing on pages 35 to 40 of the report was presented from a statistical and medical point of view, the other aspects of that question having been dealt with at the Committee's meetings the previous day.

16. Mr. ABDUL-AZIZ (Libyan Arab Jamahiriya), referring to the first paragraph on page 5 of the report submitted by Czechoslovakia, asked whether the provisions concerning approval for marriage in Czechoslovakia in any way affected the

(Mr. Abdul-Aziz, Libyan Arab Jamahiriya)

application of the provisions of article 10, paragraph 1, of the Covenant. Referring to the statement made in the first paragraph on page 6 that all working people (irrespective of citizenship) could obtain a loan from their employing organization, he asked whether the families of migrant workers enjoyed the same rights as Czechoslovak families in that connexion.

17. In conclusion, he drew attention to the provisions governing taxation described in the last paragraph on page 8 of the report and observed that the particularly positive aspects of those provisions, for example the fact that the tax on wages was based on family payment capability, deserved further comment.

18. Mrs. JIMENEZ BUTRAGUEÑO (Spain), referring to the local organs of the State (national committees) and socialist organizations and schools which prepared young people for marriage (E/1980/6/Add.21, p. 5), requested additional information on the type of services provided, on how situations of conflict were handled and, in general, on the competence of the relevant bodies. In connexion with measures for the handicapped, she asked whether there were any centres for seriously handicapped adults, particularly those who were mentally disabled, and what experience had been acquired in that connexion.

19. Mr. KORDS (German Democratic Republic) also requested additional information about the protection of the family and about the services provided for young married couples, in particular the experience acquired by the relevant organs and the extent to which they were able to provide effective assistance and support for such couples. He also requested additional information concerning the nursing service, referred in the first paragraph on page 10 of the report.

20. Mr. SVERRE (Norway) asked to what extent unmarried couples, in other words those who had been living together in a stable relationship, enjoyed the same recognition and the same rights as married couples. He also asked whether unwed mothers enjoyed the same protection as married mothers. Referring to the last paragraph on page 36 of the report, in which it was stated that abortion was permitted under Czechoslovak law and that a district commission decided on each particular case, he requested additional information on the mandate, composition and procedures of such commissions and asked to what extent women had the right to decide such matters themselves.

21. Mrs. BOSHKOVA (Bulgaria) asked what measures had been taken to reduce the number of stillbirths in Czechoslovakia.

22. Mr. MILAMBU (Zaire), referring to the statement made by the Observer for Czechoslovakia that no distinction was made under Czechoslovak law between children born out of wedlock and those of married parents, asked whether that was also true in connexion with inheritance rights.

23. Mr. SHAMMA (Jordan), referring to the loans granted to young married couples to help them to acquire housing, asked what happened it, after two or three years, the payments on such a loan could not be met; he wondered whether the housing would be taken from them or the loan cancelled.

24. Mr. SOFINSKY (Union of Soviet Socialist Republics) praised the high quality and thoroughness of the report submitted by Czechoslovakia and pointed out that Czechoslovak legislation was fully in conformity with articles 10 to 12 of the Covenant. Czechoslovakia could be proud of its schievements in that field and of the richness of its body of laws. Until recently, even the laws of the Soviet Union had not been so detailed or advanced. However, two weeks previously, Soviet laws had been supplemented and were currently more complete than those of Czechoslovakia, particularly in connexion with paid and unpaid maternity leave. For example, since 1970, under Czechoslovak law women had been entitled to a maximum of 26 weeks of maternity leave. A few weeks previously, the Soviet Union had passed a law granting women 60 weeks of paid meternity leave. Since the representative of Czechoslovakia had indicated that women were entitled to nearly one year of such leave, he asked whether the report under consideration provided incorrect data or whether any changes had occurred since it had been prepared.

25. He requested additional details concerning the building of housing, since the protection of the family was of particular interest and since the rights of the family included the right to proper housing. The Constitution of the Soviet Union provided for that right, and he asked whether similar legislation existed in Czechoslovakia, particularly in connexion with private housing. He also requested additional information concerning the rights of children following the divorce of their parents.

26. Mr. PAL (India), referring to the third sentence of the sixth paragraph on page 4 of the report, pointed out that it was frequently very difficult objectively to determine whether or not a marriage fulfilled its social function. Accordingly, he asked what means were used to ensure the necessary objectivity. Referring to the protection of children (p. 14), he noted that, in certain Nordic countries, children were permitted to renounce or to "divorce" their parents, and he asked whether they could do the same in Czechoslovakia.

27. Mr. BORCHARD (Federal Republic of Germany), referring to the provisions governing the right to adequate food in accordance with article 11 of the Covenant, said that the many statistics contained in the report provided a good picture of national food supplies; however, he would welcome additional information concerning food imported from other countries, including the developing countries. Referring to the right to housing, he noted that very complete statistics had been provided in that connexion but he asked whether they were up to date. For example, the figures listed at the top of page 32 referred to the years 1961 to 1970; more-up-to-date figures would surely indicate further improvements. Lastly, he noted that abortion and the provisions governing it were dealt with in a vague manner in the report.

28. Mr. SENTICI (World Health Organization), introducing the report prepared by the World Health Organization (WHO) concerning rights covered by article 12 of the Covenant (E/1980/24), explained that that report was intended to supplement the information provided by States parties to the Covenant. WHO had no mechanism for collecting information on the progress made by States parties in implementing the Covenant's provisions. However, it did periodically publish information on the health status, policies and action taken by individual countries, but such data

(Mr. Sentici, WHO)

were obtained from the member countries themselves and, thus, the health authorities of those countries were fully responsible for their accuracy and comprehensiveness. Moreover, the publication of a separate WHO report on the measures taken by States parties to implement the provisions of the Covenant would duplicate the reports submitted by Governments themselves.

29. Since the adoption of the two International Covenants in 1966 the WHO conception of the right to health and the need to achieve that right had evolved considerably, as was illustrated by the decisions adopted by the World Health Assembly and by the Declaration of Alma Ata, which placed the right to the enjoyment of the highest attainable standard of physical and mental health in a new perspective.

30. In 1977, the World Health Assembly had set the main social target of ensuring that, by the year 2000, all people would have attained the level of health necessary to permit them to lead socially and economically productive lives. The WHO/UNICEF International Conference on Primary Health Care held at Alma Ata, USSR, in 1978 had declared primary health care to be the key to the attainment of that target. To that end, in 1979 the World Health Assembly had invited member States to act individually in formulating national policies and plans of action and collectively in formulating regional and global strategies. The elaboration of a large number of national plans and of regional strategies for the six WHO regions had led to the formulation of a draft global strategy, which was to be submitted to the forthcoming World Health Assembly in Geneva in May 1981. The draft Global Strategy for Health, based on the Alma Ata report and on the guiding principles issued by the WHO Executive Board, reflected national and regional strategies and also responded to General Assembly resolution 34/58, which reaffirmed the role of health as an integral part of development.

31. Mr. SARAF (Food and Agriculture Organization of the United Nations) introduced the report contained in document E/1980/22, which, he said, analysed in detail practically all the FAO programmes having a bearing on the rights covered by article 12 of the Covenant. FAO believed that the right to food was of paramount importance: people dying of starvation were little concerned about some of their other legal rights. It received requests from many developing countries for help in drawing up health and food legislation, particularly on reform of agrarian systems. It was not enough for developing countries to increase their food output unless the poorer sectors of society were able to obtain the food they needed. The question of food distribution was thus linked to the general problem of economic prosperity. Fairer distribution of income led to a fairer distribution of food. If the recommendations made by the World Conference on Agrarian Reform and Rural Development were to be properly followed, a major step towards the implementation of article 11 of the Covenant would have been taken. Unfortunately, in that and other areas, such as nutrition and education, only limited resources were available.

32. Food security was another related area. FAO had information indicating that during the period of poor harvests in 1973 and 1974, when many developing countries could not afford to purchase food from the world food stocks, food

(Mr. Saraf, FAO)

consumption in such countries had decreased. It had so far not been possible to make any progress towards a proper food security programme; he regarded that task as one of the biggest challenges confronting mankind.

33. Article 11 of the Covenant was not yet being complied with. Greater commitment to the eradication of hunger was required at the national level, and internationally far too few people realized the problems which poorer countries had to face. The United Nations system was doing its best to improve the situation, but there were simply not enough funds available to overcome all the obstacles.

34. Mr. SAMSON (International Labour Organisation) said that the ILO Committee of Experts on the Application of Conventions and Recommendations had considered reports relating to articles 10 to 12 of the Covenant at its meeting in March 1981 and its report had been circulated as document E/1981/41. The indications concerning Czechoslovakia appeared on pages 12 to 14 of the report.

35. In contrast to the first stages of the reporting programme, in which all the matters under consideration had fallen within its field of activity, ILO was concerned by only some of the questions dealt with in articles 10 to 12. In that connexion, he wished to draw attention to paragraphs 6 to 10 of the ILO report, in which the Committee of Experts had identified two questions as calling for particular attention by it, namely, maternity protection (art. 10, para. 2) and the employment of children and young persons (art. 10, para. 3).

36. With regard to maternity protection, it was of interest to note that in Czechoslovakia the provisions on maternity cash benefits applied to economically active women in general and that the provisions concerning maternity leave and protection of the health and interests of working women during pregnancy and after confinement, although contained in the Labour Code, were extended also to women members of production and agricultural co-operatives. He mentioned that point because it was one on which, in respect of certain other countries considered in the ILO report, it had been suggested that clarification would be desirable.

37. With regard to protection of children and young persons, it should be noted that Czechoslovakia had ratified a number of ILO conventions relating to those matters. The ILO report mentioned only one point on which additional information would be desirable. The legislation of Czechoslovakia established a minimum age for entry into an employment relationship, apprenticeship or membership of a co-operative. As work by children might take place outside such legal relationships, for example, in agricultural work, the ILO Committee of Experts had suggested that additional information would be desirable on any measures taken to regulate it. Similar points had been made for a number of countries considered in the ILO report.

38. Mr. KUNZ (Observer for Czechoslovakia), replying to the Libyan representative, said that while Czechoslovakia did not regard marriage as a primarily legal relationship, it evidently had legal consequences and was thus covered by legal provisions. The statement appearing in the report - that the conclusion of marriage

(Mr. Kunz, Observer, Czechoslovakia)

was in no case subject to the approval of other persons - did not mean that children were precluded from seeking the advice of their parents or other persons, or that persons other than the State official officiating at the marriage and the two witnesses were to be excluded from the marriage ceremony; it indicated simply that no such approval or attendance was required.

39. Migrant workers were entitled to apply for housing loans on exactly the same terms as Czechoslovak citizens, except that the interest they were required to pay on the loan would be slightly higher. The idea of the loans was to encourage young people to marry and raise families. Couples aged over 30 could also apply for loans but they would not be entitled to the preferential rate.

40. Tax liability was calculated on the basis of a person's age, income level and the number of dependent children. Old-age pensions were not taxable; nor were proceeds from the sale of property by invalids; and disabled parents received a tax reduction if their children lived with them.

41. The representative of Spain had asked about the marriage and pre-marriage advice bureaux. The bureaux, which were largely experimental still, could provide services to older people and help them to find partners, but their central task was to give young people an insight into married life and the problems they might face.

42. The arrangements for disabled persons normally took one of three forms. When a disabled person lived with and was provided for by his family, the family received allowances in the form of tax reductions and a bonus of between 300 and 800 koruna per month; if the disabled person was entirely unable to earn a living, he received a pension of between 1,200 and 1,800 koruna. If a disabled person lived in his own flat, a visiting nurse service was provided, and the nurses would shop, clean, and generally try to prevent the person from feeling like an outcast. The State paid the cost of such care if the disabled person did not have the means to do so himself.

43. As the report indicated, only 73 advice bureaux had been set up so far, but there were plans to increase that number and to extend the experiment to other advisory systems.

44. It happened sometimes that one or both parents were unable to care for their children themselves, whether because they were abroad or because they had suffered some kind of misfortune. In such cases the children could be put into foster care, or a children's home where all was provided for them. Some children, however, were unhappy in such surroundings, needing a parental figure to relate to, and for them Czechoslovakia had instituted villages where couples unable to have children of their own would each look after three or four children and evolve a kind of family unit. When the children grew up they would leave the "family", but the personal attachments they had developed there generally endured.

45. Czechoslovak law treated unmarried and married couples similarly in many respects, but not in the matter of housing loans, which were specifically designed

(Mr. Kunz, Observer, Czechoslovakia)

to encourage young people to get married and establish a family. No distinction was drawn between married and unmarried mothers, and an unmarried mother was entitled to all the standard child allowances and tax reductions. The rights normally enjoyed by a father would, as appropriate, revert to the mother: but Czechoslovak law demanded that the paternity of any child should be established, by the courts if necessary, and held the father responsible for his offspring's welfare whether married or not.

46. In general, abortion was a criminal offence in Czechoslovakia. In certain circumstances, however, the birth of a child could be undesirable or even dangerous, and then an abortion could be applied for, but only by the woman concerned. The application would be considered by a commission of local social care workers and lawyers, which had to take a number of other factors into account besides the woman's request: legal abortion was a means of protecting the pregnant woman and society, not an easy way out of an awkward situation. If, for instance, a woman applied for an abortion on the grounds that she and her husband were divorcing, the commission could not authorize an abortion until the divorce had come into legal effect.

47. Turning to the Bulgarian representative's question about the number of stillbirths, he said that that number had been steadily falling. Various preventive measures were in force. Before marriage, prospective spouses had to make a declaration that they were aware of the state of their health. Health could not be an absolute impediment to marriage, but the authorities could require either partner to have a medical examination before the marriage ceremony took place. Pregnant women were entitled to periodic medical examinations, and normally availed themselves of the opportunity, and most children were now born in maternity institutions which had the facilities to provide immediate help in the event of problems. Once a child was born, it was immediately registered with the proper medical institution, to which the mother was thereafter obliged to take it for periodic clinical examinations.

48. Children had the same rights of inheritance whether born in or out of wedlock. Under the Social Code, half of the estate of a deceased husband went to the wife, and the remainder was divided among all the deceased's children. That provision carried an implicit bias in favour of the wife over the mistress, but that was regarded as acceptable, since it was the wife who was the home-maker.

49. With regard to the question posed by the representative of Jordan as to what arrangements were made for repayment of a loan to a young couple if the marriage ended, he said that one of the spouses might assume the loan or the court might decide to impose repayment on either spouse. Another possibility was that a former spouse or widow, as the case might be, could ask the State bank to find another investor to assume the loan. Since there were many co-operatives, it was usually not difficult to find other interested investors. In the event of incapacity of both spouses, even if the marriage did not break up, the State would take over the loan payments until such time as the spouses were able to resume them. If neither spouse was able to do so, the State would assume the loan as well as ownership of the house, but the couple would still be entitled to live in it.

(Mr. Kunz, Observer, Czechoslovakia)

50. Turning to the questions posed by the representative of the Union of Soviet Socialist Republics, he said that the length of maternity leave was 26 weeks, but if a woman was expecting her second or third child, it would be extended to 35 weeks. Either the woman or her husband was entitled to ask the enterprise where she was employed to give her unpaid maternity leave up until the time the child was 2 years old, or if there were two or three children, until the child was 3 years old. If the mother took unpaid maternity leave, she received an allowance from the State of 500 koruna for the first child, 800 for the second child and so on; thus if she had three children, she would receive 2,500 koruna per month, which was the average wage of a working man in Czechoslovakia.

51. Replying to the question on housing, he said there were different ways to acquire a flat: the couple might ask the national committee for a flat and, when one became available, rent it; they might buy a flat or a house, thus acquiring ownership; or they might build a house, either as members of a co-operative or on an individual basis. If they chose to build through a co-operative, they could either pay a certain amount and eventually own the house or they could participate in the construction and pay less. The price was divided into three parts, one paid by the buyer, one by the State and one by the enterprise where the buyer was employed; if the buyer was not employed, the national committee assumed that portion of the price. Housing loans up to an amount of 300,000 koruna were available from the State bank, with repayment at 2 1/2 per cent interest over periods ranging from 5 to 30 years. If the house was to be built in a planned new locality, the interest rate was only 1 per cent. Another interesting aspect of housing arrangements in Czechoslovakia was the construction of houses for two generations, which were quite popular; three-generation houses were also being built.

52. Turning to the question of the protection of children after a divorce, he said that under the Family Code, a judge was not allowed to dissolve a marriage until a decision had been made regarding the care of the children. The courts were required to try to find out which parent was best suited to care for the children. As a rule, custody went to the mother, but in some cases it went to the father. The court also fixed the amount to be paid for the care of the children, on the basis of the other partner's earnings and financial commitments. The court also established the manner in which the parent not having custody would be allowed to continue communicating with the children.

53. The representative of India had asked how it was objectively determined that a marriage no longer fulfilled its social function. It was a principle of Czechoslovak law that the objective truth should be found out regardless of what the parties to a dispute said. That could, of course, be very difficult. Before opening a divorce proceeding, a judge addressed the local authorities concerned with social services, who tried to ascertain the situation with regard to the couple seeking a divorce. Statements would be taken from many different people, and witnesses would testify as to the behaviour of the parents. In special cases, and with all due caution, even a child might be asked about the home situation. Furthermore, a divorce was normally not granted without two hearings. If the couple had no children, they might be able to get a divorce after one hearing. If there were children, the procedure would be much more protective.

(Mr. Kunz, Observer, Czechoslovakia)

54. With regard to the question whether a child could be freed from parental powers, he said that if one or both parents were found to be abusing their powers, the court might, after a thorough study, deprive one or both of them of those powers. That might happen in the case of a parent who drank excessively or abused the children. In some cases, the parent might even be forbidden to have contact with the children. If the situation leading to the removal of parental powers ended, parental rights might be restored.

55. Turning to the questions raised by the representative of the Federal Republic of Germany, he acknowledged that the statistics contained in E/1980/6/Add.21 were not the most recent, but said that they would surely be updated. On the question of access to food supplies, he said that every individual had free access to such supplies, which came to market in the normal way. There was no discrimination in the distribution of food supplies.

56. With regard to the question of the composition of the commission which decided on abortion, he said that it was normally composed of two doctors, one jurist, and two social workers. In some cases, another person might also serve for example, if the woman seeking an abortion had a job that was dangerous to her health or involved excessive stress, someone familiar with that issue might also be asked to attend. From the administrative standpoint, the commission was established upon application by the woman. The commission invited the woman to undergo a medical examination and reached its decision after careful study of all the circumstances. The woman could file for a review of the decision, in which case the commission met again, but with a different chairman.

57. Mr. Kunz (Czechoslovakia) withdrew.

The meeting rose at 12.40 p.m.